

EXHIBIT 53

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATIONAL COALITION ON BLACK
CIVIC PARTICIPATION, et al.,

Plaintiffs,

V.

20 CV 8668 (VM)
Telephone Conference

JACOB WOHL, et al.,

Defendants.

New York, N.Y.
October 26, 2020
9:00 a.m.

Before:

HON. VICTOR MARRERO,

District Judge

APPEARANCES

ORRICK HERRINGTON & SUTCLIFFE LLP
Attorneys for Plaintiffs
BY: RACHELLE MARIE NAVARRO

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
Attorneys for Plaintiffs
BY: JOHN LIBBY

JACOB WOHL, Pro Se Defendant

JACK BURKMAN, Pro Se Defendant

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2 anything could possibly be. And I would ask -- if you would, I
3 would ask if Mr. Wohl has anything to add.

4 THE COURT: Let me --

5 MR. WOHL: Yes.

6 THE COURT: Before Mr. Wohl speaks, Mr. Burkman, I
7 will ask just a couple of questions, and I will ask the same
questions to Mr. Wohl.

8 MR. BURKMAN: Sure.

9 THE COURT: You deny and claim that the plaintiffs'
10 allegations have no basis. Did you or anyone that you are
11 affiliated with prepare the robocalls and cause them to be
12 sent?

13 MR. BURKMAN: Well, I would suggest -- the call in
14 question, your Honor, what I would suggest to you, first of
15 all, we believe it's true on its face.

16 Secondly, we believe --

17 THE COURT: Mr. Burkman, my question was not whether
18 they're true or false right now. My question was whether you,
19 acting alone or with anyone else, prepared that message and
20 caused it to be sent?

21 MR. BURKMAN: Oh, yes, your Honor, yes. That is our
22 call, yes, yes.

23 THE COURT: You don't deny that you caused this call
24 to be made and that you --

25 MR. BURKMAN: No.

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1 THE COURT: -- don't deny the content of it?

2 MR. BURKMAN: No, your Honor, we do not.

3 THE COURT: Thank you.

4 Second question: Do you have in your possession or
5 through an agent, like the entity that Ms. Navarro referred to
6 before, that has the contacts, the individuals to whom your
7 call was directed?

8 MR. BURKMAN: In my -- I do not have in my possession.
9 I do not know what that entity in California has in its
10 possession. Obviously, there are sensitivities. One of the
11 things we'll probably be asking for in this case is a stay
12 pending the resolution of the criminal case in Michigan. So I
13 don't know what they would have in California.

14 THE COURT: Well, when you prepared the robocall and
15 presumably had it transmitted to the entity in California, did
16 you have instructions to them as to what they should do with
17 the content of the robocall?

18 MR. BURKMAN: Yes, as to the content, yes, we did,
19 yes.

20 THE COURT: You told them what to do with it?

21 MR. BURKMAN: Well, in terms of what to do with it,
22 you mean what the content of the call would be?

23 THE COURT: No. What they should do with the content
24 of the call that you directed them to do something with. Did
25 you ask them to forward that robocall to anyone, to plaintiffs

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1 robocalls underway since the beginning of any sort of legal
2 proceedings in Michigan, and that what we believe that this is,
3 is not an effort to stop robocalls -- no one, least of all the
4 plaintiffs, and no one else has alleged that any robocalls have
5 taken place since the proceedings began in Michigan. So what
6 this represents is an effort not to stop robocalls, but to
7 stifle our constitutionally protected political speech.

8 And as to Ms. Navarro's mention of the bail conditions
9 in Michigan and the like, that was examined by the court.
10 There was another hearing since the one that she referenced,
11 and everything is all in good standing as it relates to bail
12 conditions in Michigan.

13 So that's what I would conclude with, your Honor.

14 THE COURT: All right. Thank you.

15 Mr. Wohl, you indicated that you echo all of what
16 Mr. Burkman said. Does that include acknowledgment that you
17 participated in the preparation of the content of the message
18 and its communication to plaintiffs through the entity in
19 California?

20 MR. WOHL: Yes, your Honor, as to Mr. Burkman's
21 specific representation, yes, yes.

22 THE COURT: All right. Thank you.

23 Now, let me ask both Mr. Burkman and Mr. Wohl whether
24 they have specific facts or evidence that the voter information
25 that voters submit if they mail in ballots is, in fact, being

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1 present any other legal defense. I will ask that Mr. Schwartz
2 submit a notice of appearance today, and that he have until
3 tomorrow, not later than 3:00 p.m., to submit any further
4 material that he may wish to submit on your behalf.

5 MR. WOHL: Thank you, your Honor.

6 THE COURT: All right. Thank you very much. Have a
7 good day.

8 MR. BURKMAN: Thank you, your Honor.

9 MS. NAVARRO: Thank you, your Honor.

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14 I hereby certify that the foregoing is a true and
15 accurate transcript, to the best of my skill and ability, from
16 my stenographic notes.

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